IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (PIL) NO. 1265 OF 2005

with

CHAMBER SUMMONS NO. 299 OF 2005

Nakhuda M. Ali Rogay ...Petitioner

Versus

The Municipal Corporation of Gr. Mumbai and others ...Respondents

Mr. A.K.Abhyankar, instructed by M/s. Ashoka Law Firm, for the petitioner.

Mr. D.H. Mehta with Mr. Chirag Balsara, instructed by Divya Shah Associates for respondent No.5.

Mr. G.W. Mattos, Assistant Government Pleader, for respondent Nos. 3,4, 6 and 7.

CORAM: **H.S. BEDI, C.J.,** &
V.M. KANADE, J.

DATE: **DECEMBER 06, 2006**.

P.C.

We have heard the learned counsel for the parties.

2. We have perused the affidavit dated 8th November, 2006 filed by Shri Sharad S.Dalvi on behalf of the Corporation which, inter alia, states that out of the 15 structrures which have been put up in the

kabrastan, 13 have been assessed to municipal taxes whereas the other two tombs are not so assessed. We are, therefore, of the opinion that the 13 tombs referred to above must have come up years ago. The learned counsel for the Corporation makes a statement that henceforth, if any tomb is built in the *kabrastan,* the Respondent shall insist for the sanction of the plan and the approval by the Municipal Corporation. In this view of the matter, nothing survives in this petition. This petition and the Chamber Summons are accordingly disposed of.

CHIEF JUSTICE

V.M. KANADE, J.